

# **MEETING SUMMARY NOTES**

## **Legislation Work Group**

*October 24, 2002*

*10:30 a.m., Mayor's Conference Room*

**MEMBERS:** Present – Jan Gauger, Linda Crump, Bruce Bohrer, Darlene Starman, Bill Austin, Alan Hersch, Steve Larrick, Ken Winston, Brian Krannawitter, Beatty Brasch, Bob Peterson, and Chris Beutler, Allan Abbott (non-voting). Absent – Bruce Kevil

**OTHERS:** Kent Morgan, Margaret Blatchford, Corrie Kielty, Don Herz, Mark Bowen, Nicole Fleck-Tooze.

### **AGENDA ITEMS DISCUSSION:**

#### **1. Welcome - Jan Gauger, Work Group Chair & Committee Tri-Chair**

As part of the initial opening of the meeting, Lincoln Mayor Wesely made a series of introductory remarks. The Mayor thank the members of the Work Group for taking on the challenging facing them and pledged his support to ensure that the Group is able to complete its work in a timely and quality fashion.

#### **2. Self Introductions**

Self introductions were make by all of the Work Group members, as well as by individuals in the audience.

#### **3. Process Organization and Management Overview**

Kent Morgan described the overall project management approach being used in this study. This includes a single oversight committee (i.e., Mayor's Infrastructure Finance Committee), and three Working Groups. He reviewed the makeup of the Committee and of the relationship between the Committee and the work groups.

A list of the members of the Legislation Work Group was distributed. Jan Gauger explained that the Work Group has two Committee members -- herself and Linda Crump -- both of whom volunteered to be on the Work Group. Jan -- as a Tri-Chair -- will serve as the Chair of the Legislative Work Group, while Linda will serve as the Work Group's Vice Chair. Eleven individuals from the greater Lincoln community were also appointed to the Work Group, bringing the total voting membership to 13 members. Allan Abbott is also serving as a non-voting member of the Work Group.

Kent Morgan described how staff will also be available to assist the Work Group in their task. These include Jack Moors (City of Lincoln lobbyist to the State Unicameral), Gordon Kissel (Lancaster County's lobbyist to the State Unicameral), Corrie Kielty (Mayor's Office), and Margaret Blatchford (City Attorney's Office.) Other staff from the Planning, Public Works and Utilities, and Finance Departments are also available to assist in the process.

There was general agreement that this was a good assembly of community interests and that the Work Group was anxious to undertake their role in this process.

#### **4. Committee and Work Group Charge**

Copies of the Mayor's "Charge Statement" to the full Committee and three Work Groups were distributed by Kent Morgan. He then reviewed with the Work Group the major elements of the Statement and of those section directly relevant to them. This included a discussion of the overall mission of the Committee and Work Groups, which is to "seek a consensus on a realistic financial package ensuring the maintenance of existing public infrastructure and the delivery of future public infrastructure to facilitate community growth.' Mr. Morgan next reviewed the five "Key Working Assumptions" that form a fundamental base for the process and its completion. The Charge Statement developed specifically for the Legislation Work Group was then reviewed and discussed.

A list of "Work Group Task Elements" was also distributed by Mr. Morgan and briefly reviewed by him.

Several Work Group members did ask about the availability of the Comprehensive Plan. Mr. Morgan agreed to look into ways in which copies of the Plan could be provided to the Work Group. He noted that the use of CD's would be the most cost effective format for making copies of the Plan available to Work Group members.

#### **5. State Road Funding**

Allan Abbott provided the Work Group with an overview of the method used in distributing State Highway Trust Fund monies and how much of these funds Lincoln receives on an annual basis. Mr. Abbott handed out two summary sheets as part of his presentation. The first handout presented a "decision flow chart" providing the allocation formula for distributing revenues from the State Highway Trust Fund. The handout referenced such funding sources as motor vehicle registration fees, motor vehicle sales tax, gas tax, and diesel fuel fax.

Mr. Abbott used a second handout to show how these funds are then allocated among the State, counties and cities – including Lincoln. Mr. Abbott noted that a vital link in this flow of money is the "variable gas tax." The variable gas tax is now set at 24.5 cents – with the counties and cities receiving 12.5 cents and the State (NDOR) receiving 12.0 cents. When the variable rate is increased by the State Roads Commission, the entire amount of the additional revenue stream goes to the State.

Mr. Abbott went on to explain that a 1 cent gas tax brings in about \$12 million state-wide. Of the total State Gas Tax program, the State gets 72 percent, while the counties and cities receive about 14 percent respectively. This equates on average to about \$212 million per year to the State, \$41 million per year to the Counties, and \$41 million per year to the cities. When this is broken down further, Omaha receives about \$10.3 million per year, Lincoln about \$6.3 million per year, and all other Nebraska cities about \$23.9 million per year.

Sales tax on automobiles brings in about \$135.5 million per year, with the State getting \$72.3 million (53.4 percent), counties about \$31.6 million (23.3 percent), and cities about \$31.6 million (23.3 percent), according to the figures presented by Mr. Abbott.

By the time all the major funding sources (i.e., sales tax, registration, and gas tax) are factored into the equation, Mr. Abbott noted that the City of Lincoln receives about 2.7 percent of the total for the State. This percentage is in stark contrast to the City's overall percent of the State population, which stood at about 15 percent according to the Year 2000 U.S. Census.

Mr. Abbott then discussed some possible means for remedying this situation so that Lincoln would receive a greater amount of funds each year to repair and build its street infrastructure. The initial three options Mr. Abbott mentioned were: (1) amend the State's revenue allocation formula so that the City receives a greater portion of the available funds; (2) increase the gas tax so that the "size of the pie is increased," with Lincoln then receiving more funds even though the allocation formula remains unchanged; and, (3) authorize local jurisdictions to approve their own gas tax, which is a method commonly found in other states.

It was mentioned that one option that's been discussed is to increase the State's overall gas tax by two cents, with the half the revenues going to the cities and counties, and the other half going to the State. This would bring in an estimated \$3 million to Lincoln each year. A "2 cent local and 2 cent State tax" would of course bring in a proportional amount of funds.

Allan Abbott then noted that various options have been discussed with the City of Omaha and the Nebraska League of Municipalities, and will be further discussed with them over the coming weeks. When asked by one member of the Work Group which option is "best," Mr. Abbott said that right now they are "all about the same." Each option has its good and bad points, with a primary consideration being which option can be successfully pursued in the Unicameral. In response to a separate question from a Work Group member, Mr. Abbott said that he thought that a \$10 wheel tax would bring in about as much money as a 1 cent gas tax. There was further discussion among about the State's gas tax allocation formula and of the difficulty in getting it changed by the Unicameral.

## **6. LR 414 and the “Transportation Task Force for Nebraska’s Future”**

The Work Force’s discussion then turned to two forthcoming efforts of the State: (1) the Unicameral’s Legislative Resolution 414; and (2) the Governor’s “Transportation Task Force for Nebraska’s Future.”

LR 414 calls for an interim study to “review the current process for Department of Roads’ Projects.” This includes a review of all projects over \$10 million, how projects are prioritized, how projects are funded, level of communication between NDOR and project stakeholders, and other related issues. Mr. Abbott will be speaking to the Interim Study panel on November 1<sup>st</sup> regarding the City of Lincoln’s position on these matters.

A summary handout of the “Governors Transportation Task Force” was also distributed. The Work Group includes Kathy Campbell and Don Thomas (both from Lancaster County), but does not involve any City of Lincoln representatives. This Task Force will look at issues similar to LR 414, including how projects are prioritized, how projects are funded, current plans for project oversight and review, and communication with stakeholders.

Kent Morgan noted that in a recent conversation with Kathy Campbell, she indicated that they would be following the “Kansas model” in approaching their work. This will include public hearings in all eight NDOR districts. The process is running behind schedule. Original plans were to have the hearings in October and November of this year, but it appears now that the hearings won’t occur until January, 2003, at the earliest. A final report from the Task Force may not be available until well into the spring of 2003. Ms. Campbell has a meeting schedule with State staff in early November to discuss the process; with the entire Task Force set to have their initial meeting on November 21<sup>st</sup>. Ms. Campbell is very willing to come talk to the Work Group to further brief them on the workings and schedule of the Task Force.

As the Work Group continued their discussion, Chris Beutler presented a legislator’s perspective on some of the difficulties facing the City as they work with the Unicameral on this issue. The State’s budget gap remains around \$460 million based on the work completed during the recent Special Session. This could grow to \$520 million by the time the Unicameral meets again in January. The Unicameral did impose three taxes to help fill this gap – and these taxes will likely be extended during the Regular 2003 Session. The transfer of funds that was possible during the 2002 Special Session won’t be available again during the 2003 Regular Session. In short, cuts in core programs are probable. Given all of this, the Legislature is “adverse” to other tax increases. Mr. Beutler did indicate that, because of all the cuts of local support from the State level, there may be a “guilt factor” that would favor authorizing legislation to permit localities to impose new sources of revenue on themselves.

Mr. Abbott then mentioned that he felt raising the State gas tax may be the most promising option, given that the Unicameral won’t want to tackle the issue of changing the allocation formula. Having said that, he also noted the Legislatures reluctance to take affirmative action on

the gas tax in past years. He noted that the City has lost about \$700,000 in each of the past two years because of a negative Unicameral action on the gas tax about seven years ago.

Jan Gauger asked if a gas tax increase would likely require a vote of the general electorate. Bill Austin indicated that he thought it probably would not require such an action. Allan Abbott also noted that Omaha had approached the Unicameral about a local gas tax option a few years ago and were told “no” that it wouldn’t be approved.

Mr. Austin posed the question of who establishes the allocation of Federal gas tax funds. Mr. Abbott said the Congress does. As a side note, Mr. Abbott noted that now that the City of Lincoln is over 200,000 in population, we may actually be eligible for fewer Federal funds in certain situations.

## **7. Stormwater Utility Legislation**

Nicole Fleck-Tooze (PW&U) was present to discuss the status of the City’s efforts to obtain authorizing legislation to establish a local stormwater utility. Ms. Fleck-Tooze handed out copies of a status summary sheet on the effort and a “rough draft” of the proposed legislation. She noted that similar bills were proposed in the 2001 and 2002 legislative sessions.

The impetus for the proposed legislation stems from Federal clean water laws imposing a number of unfunded mandates on local communities. The proposed legislation is “permissive only” in that it merely authorizes localities to create their own stormwater utility. User charges would be proportionate to the contribution the property owner made to the discharge of storm water. Impervious surfaces (i.e., hard surfaces areas such as drive ways, parking lots and structures) are the primary factors used in calculating user impacts. Exemptions are granted for agricultural lands. Ms. Fleck-Tooze noted that a November 6, 2002, meeting has been scheduled with major stakeholders to address the concerns raised by the proposed legislation.

In response to a question raised by a Work Group member, Ms. Fleck-Tooze indicated the funding of stormwater improvements would be shifted away from property taxes (i.e., “general funds”) and toward “user fees.” In a follow up question, she noted that a variety of funding sources might ultimately be used in the future should the State authorizing legislation pass and a local stormwater utility created.

Allan Abbott stated that the operations of the system would be similar to the water and wastewater utilities in place today. Regular billings would be sent to users based on their calculated contribution to water runoff. Ms. Fleck-Tooze – when asked what the average residential customer might expect to pay for this service -- indicated that it is still too early to know this but that it might be in the range of \$3 to \$6 per month per “equivalent residential unit.”

Bill Austin wanted to know if other governmental entities would be charged these user fees. Ms. Fleck-Tooze indicated that it is possible they would be charged just as they are now charged for water and wastewater utility services. Mr. Austin then questioned Mr. Abbott as to whether the

City would “charge itself” for run off from city streets since they constitute “impervious surface.” Mr. Abbott noted that the streets are actually part of the stormwater system as they carry water flows and deposition them into the stormwater system through network of gutters and drains. In short, Mr. Abbott indicated that he was not expecting the City to pay a user fee for streets.

Alan Hersch asked if entities exempt from property taxes would also be exempted from paying for this service. Mr. Abbott and Ms. Fleck-Tooze both indicated that they would probably not be exempted as these are “user fees” and not taxes.

Jan Gauger inquired as to the what the penalties would be should the City fail to comply with the Federal standards. Ms. Fleck-Tooze noted that fines of up to \$25,000 a day can be imposed under the Federal Clean Water Act, so that there is certainty an incentive for Lincoln to move forward to address this matter now rather than waiting.

## **8. Other Business**

Chris Beutler noted that the City may wish to think about how it packages any requested gas tax legislation as the matter could end up being assigned to a variety of Unicameral committees – and in turn, this assignment process can affect its potential for passage.

## **9. Next Meeting Date and Agenda Topics**

The Work Group set two dates for future meetings: (1) Thursday, November 7, 2002, beginning at 10:30 a.m.; and (2) Thursday, November 21, 2002, beginning at 10:30 a.m. Both meetings will be held in the County-City Building with the room locations to be determined on available meeting space.

## **10. Adjournment**